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Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@boultcummings.com

October 15, 2002 15 PM 12 21

Hand Delivered

Ron Jones, Director
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

TN REGULATORY AUTHORITY
DOCKET ROOM

*Re: In the Matter of Petition Of Tennessee UNE-P Coalition To
Open Contested Case Proceeding To Declare Unbundled
Switching An Unrestricted Unbundled Network Element*

Docket No. 02-00207

Dear Director Jones:

In brief response to the letter you received on October 10, 2002 from Ms. Joelle Phillips, attorney for BellSouth Telecommunications, Inc., I would like first to note that the Coalition's letter to you, although dated October 8 was, through oversight, not delivered to the Authority (or anyone else) until late afternoon on October 9. It was faxed to BellSouth at the same time. I certainly agree with Ms. Phillips that the service of filings to other parties should be "made reasonably contemporaneously with the filing of such documents." That occurred in this case.

In regard to the other arguments in the letter, the Coalition stands by its previous statements that most of BellSouth's proposed stipulations are either argumentative assertions (*i.e.*, "BellSouth provides hot cuts in Tennessee within a reasonable time interval, and at an acceptable level of quality.") or statements of fact that the Coalition cannot independently confirm or, without further discovery, closely examine (*i.e.*, "CLECs have at least 18 switches in Nashville, including 5ESS and DMS500 switches.")¹ Other stipulations are so innocuous as to be almost meaningless. ("The FCC is currently evaluating its unbundling rules, including its rules regarding local switching.")

These are all assertions that BellSouth may, of course, present in a hearing, but the Coalition cannot be required to stipulate to matters that (1) the Coalition has no knowledge of or (2) are obviously argumentative and designed to make it easier for BellSouth to prove its case.

¹ BellSouth states that the number of CLEC switches in Nashville is based on information contained in the Local Exchange Routing Guide (the "LERG"), which is available to all carriers. The LERG lists points where traffic is supposed to be routed, which may or may not be conventional switches. Some "switches" may only be routers used for data (Internet) traffic.

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At bottom, BellSouth appears to demand, as a matter of right, that the parties enter into stipulations. BellSouth has no such right. Failing that, BellSouth threatens once again to drag non-party CLECs into the case even after BellSouth acknowledged at the last conference that BellSouth already has access to the factual data it needs about CLEC capabilities. For example, the letter from Ms. Phillips states that BellSouth has been able to independently confirm the switch information in the LERG. Perhaps so, but without the opportunity to take further discovery, the Coalition does not have access to that information and cannot reasonably be expected to stipulate to its accuracy.

As stated in the Coalition's earlier letter, the Coalition stands ready to discuss these matters further at a pre-hearing conference. The attorneys for the Coalition are available throughout the week of October 14.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker

HW/nl

c: Joelle Phillips, Esq.
Chuck Welch, Esq.